HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.26028 of 1996

24th July, 2007

Between

Government Polytechnic Hostel represented by its Hostel Manager ..Petitioner

AND

The Assistant Labour Officer, Circle I, Proddutur, Cuddapah District and another ..Respondents

:: JUDGMENT ::

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This writ petition has been instituted seeking the following relief:

> "… it is therefore prayed that this Hon'ble Court may be pleased to issue a Writ or order or direction declaring the proceedings in Case No.M.W.8/92 before the 2nd respondent initiated by the 1st respondent and the consequential proceedings in S.T.C.No.201/96 on the file of the Judicial First Class Magistrate, Proddatur, Cuddapah District as illegal, arbitrary and without jurisdiction and set aside the same and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case".

It is not in dispute that a hostel has been attached to the Government Polytechnic at Proddatur in Kadapa District and the workmen employed in the said hostel were paid the wages as fixed and notified by the State Government from time to time. It will be relevant to point out that the staff working in the hostel have been brought on to the regular scales of pay with effect from 1.3.1991, but the competent authority who entertained an application under Section 20(5)(b) of the Minimum Wages Act,

1948 (fort short, 'the Act'), ordered for recovery of certain monies on the ground that they were falling short of the minimum wages prescribed for various categories of posts for the period from 13.6.1991 to 30.11.1991. It is, this order passed by the competent authority, which has been made the subject matter of *lis* in this writ petition.

The learned Government Pleader has placed before me the gazette notification dated 13.6.1991 of the minimum rates of wages for various categories of employees employed in the clubs and canteens which was notified through G.O.Ms.No.55, Women's Development, Child Welfare and Labour (Lab.II) dated 8.4.1991. The learned Government Pleader has also invited my attention to the gazette notification dated 18.2.1992 notifying the employment in hostels of all colleges and all other educational institutions, which is added to the list of employments notified in Part I of the Schedule to the Act. Thus, the employment in hostels of all colleges and other educational institutions has been made part of Part I of the Schedule of the Act with effect from 18.2.1992. Similarly, through yet another notification gazetted on 27.4.1996, the basic wages of various categories of employees working in the hostels have been revised. Therefore, based upon these notifications, it is contended by the learned Government Pleader that the employees working in the hostels have been paid their wages strictly in accordance with the notifications which have been issued under the provisions of the Act and therefore, the order passed by the competent authority is without proper appreciation of these factors.

It will be relevant to notice the meaning ascribed to the

expression “scheduled employment” which is defined under Section 2(g) of the Act.

> “ ‘Scheduled employment’ means an employment specified in the Schedule, or any process or branch of work forming part of such employment.”

The mode of effecting amendment to the Schedule appended to the Act is dealt with under Section 27 in the following manner:

> **“27. Power of State Government to add to Schedule:--** The appropriate Government, after giving by notification in the Official Gazette not less than three months’ notice of its intention so to do, may, by like notification add, to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly”.

Under Section 3 of the Act an obligation is cast upon the appropriate Government to fix the minimum rates of wages payable to employees employed in any employment specified in either Part I or Part II of the Schedule appended to the Act. What components should comprise of the minimum rates of wages has been spelt out in Section 4 of the Act. While fixing the minimum rates of wages for the first time or revising the existing rates, the appropriate Government shall notify the same for the information of persons likely to be effected thereby, which will come into operation after expiry of 3 months period.

Upon such a notification becoming effective, an obligation is thrust in terms of Section 12 of the Act upon every employer to pay the every employee engaged in the scheduled employment wages at a rate lower than the minimum rate of wages fixed and so notification.

It is not in dispute that for the period for which the impugned order came to be passed, the employment in hostels attached to the educational institutions is not included in either Part of the Schedule appended to the Minimum Wages Act and hence no obligation in accordance with Section 12 can be fastened on to the petitioner. Hence, the liability to pay wages has got to be construed in terms of the general notification issued by the State Government which the writ petitioner asserts that the same has been faithfully complied with. Therefore, the order passed by the competent authority is set aside as it is contrary to Section 12 of the Minimum Wages Act, 1948.

The writ petition is accordingly, allowed, but however, without costs.

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NOOTY RAMA MOHANA RAO.J.

24.7.2007
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